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Territorialization, science and the colonial state: the case of Highway 55 in Minnesota

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This paper examines a recent conflict over the rerouting of Highway 55 in the city of Minneapolis, Minnesota. During a three-year struggle over the project, a group of indigenous people argued that the space where the highway would pass was sacred and of historical importance. We analyse a Cultural Resource Assessment prepared by a team of scientists that responded to these claims and cleared the way for the reroute. Our reading, which draws from the literatures of postcolonial studies and sociology of science, examines the way scientific claims are made to evaluate the sacredness of the site. We find that science works to produce the effect of state *territorialization* – or the iterative making of the space of the state – by placing ecological phenomena and indigenous testimony ‘within’ a non-sacred Minnesotan space.

The reroute of Highway 55

Just after 4AM on December 20 [1998], over 600 police officers descended . . . [T]he raid on the Minnehaha Free State was the largest show of police force in Minnesota history. Seven buildings in the path of the proposed reroute of highway 55 in southeastern Minneapolis had been occupied by activists since August. The raid resulted in 37 arrests and was followed by the fastest demolition job the city has ever seen.¹

We can't declare all lands sacred; we can't have somebody raise a fuss every time we want to build somewhere. For practical reasons, the line has to be drawn somewhere. Who deems what is and is not sacred? What's sacred to one is not sacred to another. (Minnesota Governor Jesse Ventura).²

When the Minnesota Department of Transportation (MnDOT) revealed plans in 1996 to expand and reroute a trunk highway through a neighborhood overlooking the Mississippi River, an opposition group made up of homeowners, environmentalists and indigenous peoples organized a campaign of legal activism and non-violent direct action

to 'stop the reroute'. The plans called for Highway 55 to be rerouted through a working-class neighbourhood, a state park, and then to pass through US Army property on its way to the airport. In 1996 and 1997, homeowners and environmentalists organized to oppose the reroute and its impact on Minnehaha State Park and the residential neighbourhood, but met with limited success. By February 1998, all the houses in the way of the reroute had been condemned. The protesters responded by constituting the 'Minnehaha Free State' in and around seven condemned homes. After the demolition of the houses in December, the Free State moved 200 metres south along the project corridor, establishing a camp in a clearing atop a bluff over the Mississippi River. Opposition to the project then focused on indigenous claims about the sacredness of the area. The Free State centred around four large oak trees growing in a diamond formation, with the points toward the cardinal directions. Leaders of the Mendota Mdewekanton Dakota argued that these trees and the land around them are sacred (Figure 1).³

A lawsuit by the Mendota Dakota compelled the state to commission a scientific report assessing the sacredness of the site: *A Cultural Resource Assessment of the proposed reroute for Trunk Highway 55* (hereafter CRA).⁴ The CRA rejected the Mendota claims, arguing that the site did not meet federal standards for 'cultural significance' and therefore could not be legally protected as a 'traditional cultural property' by the US



FIGURE 1 The four oak trees at the centre of the Highway 55 conflict, looking west. (Photo: J. Wainwright.)

government.⁵ The day after the *CRA* was issued at a press conference, its conclusions were reprinted in the *Minneapolis Star-Tribune*:

A government-funded study shows no evidence to support claims that human remains or sacred American Indian sites lie in the path of the proposed reroute of Hwy. 55. In addition, the study ... says that four bur oak trees identified as sacred by Indian activists are too young to be of historic significance.⁶

This meant that the MnDOT could move forward without delay.

The four oak trees grow amid a remarkable landscape (Figure 2). One mile downstream, just past a large spring known as Camp Coldwater, is the confluence of the Mississippi and Minnesota Rivers. Until the mid-nineteenth century, the landscape around the confluence had been heavily populated and visited by the Eastern bands of the Dakota.⁷ On the cliffs overlooking the confluence of the rivers sits Fort Snelling, the first military settlement in Minnesota. When the US Army established Fort Snelling in 1819, the location was selected because this was the site of many economic and political linkages for different indigenous nations.⁸ The first European settlements in the Minnesota Territory were established near the fort, extending out along the rivers. By the 1830s a diverse community of Europeans, Dakota and Metis peoples were living between the Fort and Minnehaha Falls (one mile north of the oaks).

Contact between the Mdewekanton Dakotas and the white settlers increased during

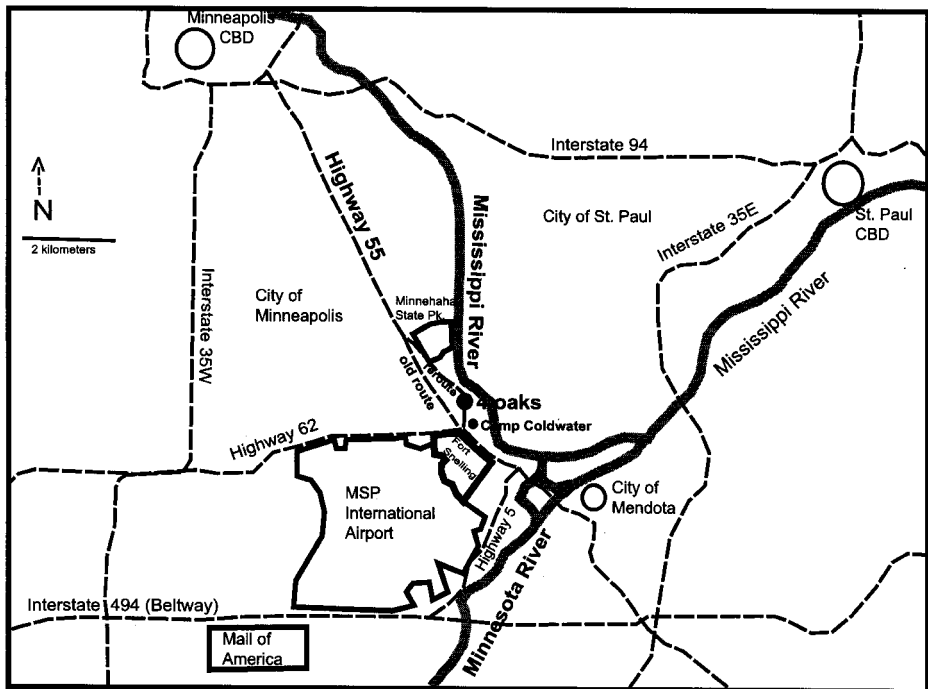


FIGURE 2 Map of the disputed area (Cartographer: M. Robertson).

the nineteenth century, especially after a treaty was signed in 1837. Throughout this period, the US government was actively trying to change Dakota livelihoods by teaching agriculture and encouraging white settlement.⁹ Conflicts between Dakotas and settlers led to a second treaty, in 1851, which the Mdewekanton Dakota negotiated and signed in Mendota, a village at the confluence of the rivers. The treaty of 1851 ceded ownership of most of the Mdewekanton's land to the US government.¹⁰ Having lost their land and much of the game hunted in the area, and after some promised financial payments from the US government were cancelled because of the US Civil War, some Dakota warriors rose up against colonial agencies in August 1862.¹¹ Because of their location near Fort Snelling, many of the Mendota band of Mdewakantons decided not to participate in the Dakota uprising that led to the forced removal of most remaining Dakotas from Minnesota.¹² Some Mendota Dakota families have remained resident in the vicinity of Fort Snelling through the entire period of European settlement.¹³

By the mid-twentieth century the area had become heavily urbanized, but the space around the disputed trees remained open land in government ownership. Today, nearby centres of consumption (the Mall of America), transportation (Minneapolis–St Paul International Airport), finance (the Minneapolis CBD) and a military base show the continuing significance of the site. The position of the oaks between downtown Minneapolis and the airport/Mall complex places them directly in the path of the city's aspirations for the rationalization of transportation; the new Highway 55 links the CBD with the airport. Light rail is under construction.

The conflict around Highway 55 concluded in 1999. A protest march in June met concerted police resistance; the ensuing controversy over police brutality energized the occupation of the Free State (Figure 3). After more arrests and police surveillance, Mendota Tribal Chairman Bob Brown issued a statement in October: 'The preservation of the Four Oak Trees is so sacred to the Mendota Mdewekanton Dakota Community that some of our braves are willing to lay down our lives to save them.'¹⁴ The endgame soon followed without loss of life. In early November, police informed the Mendota encampment that a raid could be expected soon. The police negotiated the Mendota withdrawal from the site and promised to treat cultural artefacts with respect. The trees were removed on 11 December 1999 in an interaction that was relatively calm. Mendota Dakota elders performed a ceremony before allowing the police to take the trees. The four oaks were taken for ceremonial purposes by the Mendota Dakota.

Since 1999, the anti-reroute coalition has focused on protecting the Camp Coldwater site. This campaign succeeded in pushing bills through the Minnesota legislature in 2001. The Mendota Dakota have also developed their institutional capacities through the process, opening an application for federal recognition and establishing a community centre in the town of Mendota for language classes and community events.¹⁵ On 11 August 2001, the Mendota Dakota held a pow-wow to mark the 150th anniversary of the 1851 treaty between the Dakota and the United States – long since broken.



FIGURE 3 The council circle of the Minnehaha Free State, just east of the four oaks, looking towards the bluffs over the Mississippi River. (Photo: J. Wainwright.)

Territorialization, colonialism and science

... 'territory', or the state's 'nature', [is] not fixed and immutable. (Bruce Braun)¹⁶

After reading the *CRA* and spending time at the site, we were drawn to ask: how does the State of Minnesota come to be regarded as having a stable, coherent territory?¹⁷ And what role do science and the assessment of 'cultural resources' play in this process? Our line of inquiry is influenced by theorists and geographers who have studied the ways space, scale, and territory are produced.¹⁸ We contribute to this discussion by reading the case of the 55 reroute and the *CRA* to describe how the state works to territorialize its space.

A critical reading of the *CRA* calls for two literatures that have been marginal to geographical debates about territoriality: postcolonial theory and the sociology of science. Most work to date in postcolonial theory has studied the effects of colonial knowledges with a focus on historiography and nationalism.¹⁹ We suggest that postcolonial theory also has a great deal to say about geography and territory. Our point of departure is Said's critique of orientalism, where 'the Orient' is shown to be an imaginary geography constructed by orientalist institutions and colonial discourse.²⁰ Said gives territory as an example of an object that is created through the production of space:

It is perfectly possible to argue that some distinctive objects are made by the mind, and that these objects, while appearing to exist objectively, have only a fictional reality. A group of people

living on a few acres of land will set up boundaries between their land and its immediate surroundings and the territory beyond, which they call 'the land of the barbarians.' In other words, this universal practice of designing in one's mind a familiar space which is 'ours' and an unfamiliar space beyond 'ours' which is 'theirs' is a way of making geographical distinctions that can be entirely arbitrary. I use the word 'arbitrary' here because imaginative geography of the 'our land-barbarian land' variety does not require that the barbarians recognize our distinction. It is enough for 'us' to set up these boundaries in our own minds; 'they' become 'they' accordingly, and both their territory and their mentality are designated as different from 'ours.'²¹

Studies of territory in geography and international relations usually rely upon realist notions of politics, and especially legal discourse, to understand how territory should be defined.²² Following Said, we argue that territory is not simply 'the spatial organization of persons and social groups' within demarcated boundaries.²³ Rather, it is something materialized through socio-spatial practices that separate 'us' from 'others'. The concept of exclusive state territory, where territory is the coordinate space occupied by a nation-state, is fundamental to the way modernity has been 'worlded' – in pieces, with each piece a part of one or another nation-state's territory.²⁴ As Brenner explains, the Westphalian model of the nation–state–territory coupling became hegemonic in the twentieth century, when 'the notions of state, society, economy, culture, and community . . . had come to presuppose this territorialization of social relations within a parcelized, fixed, and essentially timeless geographical space'.²⁵

To study territorialization, we ask: how is the effect of territoriality achieved? We use this term to emphasize that territorialization is never completed, but is an iterative process which states must continually perform. Territorialization works not only at the physical margins of a solid 'territory', in the sense of boundaries around sovereign space, and not only where there are border disputes, but also 'internally' and unevenly.²⁶ Asking how the effect of territoriality is achieved opens up a number of productive ways of thinking about questions of politics, space and scale. In territorial claims, scientific practices are often cited as a source of an objective reading of the state's historical geography. Thus, scientific practices may make the territory of the state appear stable, uncontested and complete.

Science and territorialization

We, the readers, do not live *inside* space, that has billions of galaxies in it; on the contrary, this space is generated *inside* the observatory by having, for instance, a computer count little dots on a photographic plate . . . It seems strange at first to claim that space and time may be constructed locally, but these are the most common of all constructions. (Bruno Latour)²⁷

In the Highway 55 conflict, the practices that produce state territory are all 'scientific': testing soil cores, reading archival sources, delineating wetlands and digging archaeological test pits. We use the *CRA* to study the work that science performs for the state in its efforts to achieve territoriality. For this reading we borrow Latour's framework for studying scientific claims, which examines how such claims are made effective.²⁸ Once scientific claims are disseminated, they carry the weight of authority; contesting them is expensive and difficult.

Our narrow focus on the *CRA* mirrors the Highway 55 struggle itself. After its appearance in April 1999, the *CRA* became an ‘obligatory passage point’²⁹ in that all arguments about the reroute had to address this privileged text. To observe the creation of state territory, we focus on the moments in the text where pieces of evidence are grouped together and then abstracted in acts of what Latour describes as circulating reference:³⁰ ‘we never face the imposition of arbitrary and discrete signs on shapeless and continuous matter. We see only an unbroken series of well-nested elements, each of which plays the role of sign for the previous one and of thing for the succeeding one.’³¹ In describing these practices in the *CRA*, our goal is not to demonstrate how ‘better science’ should have reached a more just conclusion. Our aim is to show how science and state-making intertwine in the *CRA* report through the ‘imposition of arbitrary and discrete signs on shapeless and continuous matter’.

From science to the sacred: unpacking the claims

The *CRA*’s conclusion is supported by four specific sub-claims:

- There is no historical data on the trees’ use as a religious site.
- There is no archaeological evidence for ceremonial use of the site, part of which appears to have been a wetland prior to 1920.
- The location of the trees, about 150 ft from the edge of a bluff overlooking the Mississippi River and near a wetland, is inconsistent with historical evidence on Dakota funerary practice.
- The trees are not old enough to have existed when the Dakota lived in the area.

These claims are defended in three ways in the *CRA*. The report first turns to the science of dendrochronology (using tree-rings to establish the ages of trees and associated artefacts); it then references soil stratigraphy (mapping the extent of layers which make up the soil); and finally it interprets ‘ethnohistorical’ evidence and indigenous testimony. We discuss each in turn.

Dendrochronologies

Whereas some European states naturalize their origins by gesturing to pre-Westphalian traditions, states like Minnesota, founded through recent colonial occupation, have no such option. To close off debates about the conditions of their origin, they must rely on those special texts that constitute the nation–state–territory trinity, like treaties with indigenous nations and constitutions. At certain moments, other kinds of truth- and space-constituting texts are needed which are designed to codify and limit dissent, such as the reports of Truth and Reconciliation Commissions, and Cultural Resource Assessments. To legitimate the space of Minnesota, the *CRA* must establish a sequence of events which will narrate the founding of Minnesota. It makes use of the four trees by placing them on this timeline in such a way as to negate the possibility of sacred relations with the Dakota.

To arrive at the conclusion that the 'oak trees . . . may not have existed during the period that Dakota people could have used the area as a burial ground', the *CRA* cites the *Report on the aging of bur oaks near Minnehaha Falls, Minneapolis, MN*, by University of Minnesota forester Gary Johnson.³² After taking tree-cores and counting rings, Johnson reports that the ages of three oak trees within a one-mile radius of the four oaks are between 125 and 134 years. The *CRA* then re-presents Johnson's data by claiming: 'The three trees examined by the University team were selected based on size range similarities to the four oaks situated in the proposed road corridor'³³, and then that the sampled oaks were in 'the immediate area' of the four oaks. Both claims are absent from Johnson's report, but they are presented alongside several of Johnson's claims that are made with scientific rigour to suggest that the four oak trees are not old enough to have been sacred sites at the time of the forced eviction of Dakota from the area in 1853: the four trees would have had to be at least 146 years old in 1999.³⁴ This leads the reader to the conclusion that Minnesota state territoriality at the site of the oaks was achieved (through the deportation of the Dakota) *before* the trees existed.

Having placed the origin of the trees on a timeline, not earlier than 1864, the *CRA* then arranges colonial history around this placeholder. Section II-C of the *CRA* ('Historic maps and records of previous land use'), presents maps from the nineteenth century that depict the area as barren and treeless. These scaleless, hand-drawn maps give only a rough indication of roads, vegetation, and topographic features. But a precise circle is digitally imposed on each map where the *CRA* asserts that the four oaks stand (Figure 4). The placement of new arrows, circles and text on the old maps produces the effect of certainty and clarity; the neatness and technical precision of the augmented maps suggests complete knowledge of the sequence of events at the site. The *CRA* says:

Considering the number of non-Indians settlers who lived in the vicinity of Camp Coldwater between 1821 and 1840, and the number of individuals who must have passed by this location between 1820 and 1850 to visit the falls at Minnehaha Creek and St Anthony, it seems very unusual that no one would have commented on the existence of an important Indian cemetery located so near the Fort.³⁵

In other words, because no 'cemetery' was noted by the colonists, there were no sacred sites. Through this presumption of panoptic knowledge, the *CRA* claims that the Dakota history of the area ended in 1853,³⁶ thus requiring a minimum tree age of 146 years for the oaks to qualify as sacred.

Buried epipedons, buried epistemologies³⁷

The *CRA* asserts the space of Minnesota's territorialization by invoking the very texts that constituted Minnesota's territoriality in the 1800s: colonial diaries, maps and knowledges of indigenous nations as raced and inferior. Just as the colonial maps delineated a space called 'Minnesota' in the nineteenth century, so do they continue to be used in the *CRA*. Soil maps produced by a stratigraphic investigation of the site also became important strategic resources for the state because they, like the colonial maps, 'contribute to the construction of spaces that later they seem only to represent'.³⁸ These maps write a

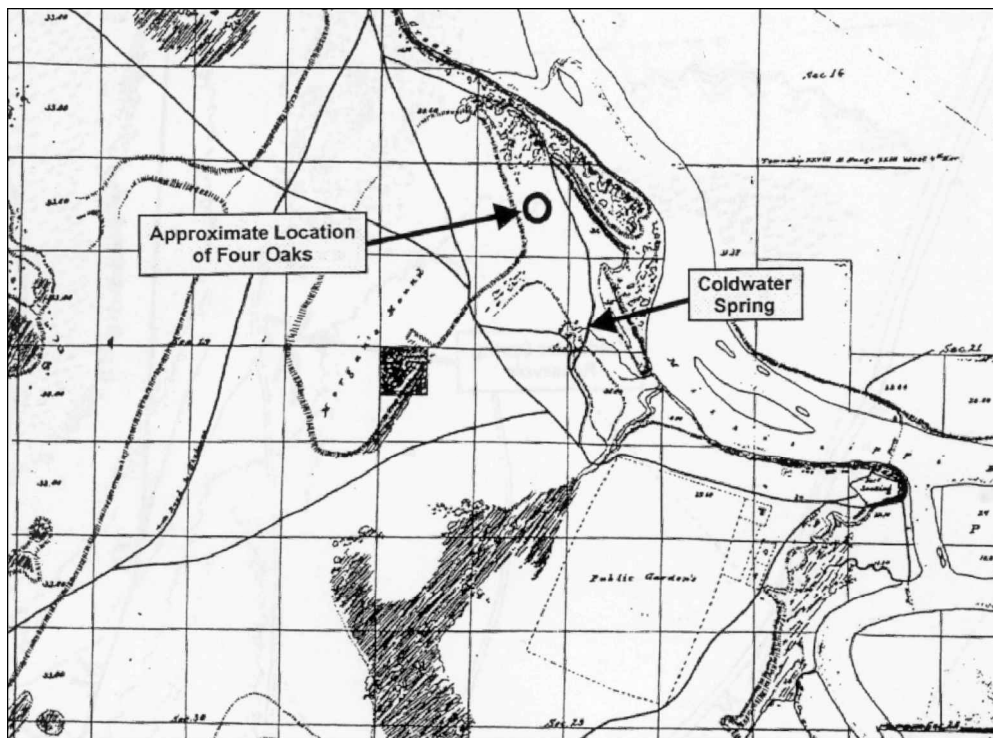


FIGURE 4 Seth Eastman's 1857 map of the Fort Snelling Military Reservation, on which the *CRA* authors have imposed a marker locating the four oaks. Because of the presence of a surveyor's grid, the *CRA* praises this map as the 'best' one available (p. 17). (Courtesy of Minnesota Department of Transportation.)

territory of Minnesota against the claims of the Mendota because they do not show the dispossession and exclusion of the indigenous nations in the space of the state; they work because they seem to describe objectively a neutral space that already 'is' Minnesota.

The *CRA* states that 'the area immediately adjacent to the four bur oak trees [is] a wetland buried by modern fill', giving the area 'very low potential to contain significant archaeological deposits or human burials'.³⁹ An appendix containing a stratigraphic report describes the existence of hydric (wetland) soils on the project site, buried beneath up to four metres of gravelly fill material that had been deposited in the 1920s.⁴⁰ Some soil cores from the site contained thin layers of organic mucky deposits beneath the fill material (none more than 10cm), indicating that the area had experienced hydric, anoxic conditions under which organic decomposition is slowed to a degree that allows the buildup of organic matter.

The data from a transect of 11 soil corings are arranged in a figure that maps the vertical extent of soil types beneath the site of the four oaks (Figure 5). The four oaks (not shown on the diagram) are located between two coring sites, nos. 10 and 11; one

contained hydric soil, the other did not. Both cores contained fill. In the *CRA*'s map, the heaviest shading is reserved, *not* for the areas where hydric soils were found, which would exclude the oaks, but for the areas buried under the *fill*, which includes the oaks. The epipedon buried below the fill is then described as a 'paleosol in a wetland basin'⁴¹ – thus the conclusion that the oaks were 'in a wetland basin'.

This is an important coding of space. Once the oaks are placed in 'wetlands', the *CRA* can turn to wetland science to show that the facts are against indigenous use of the area. This is done in two ways. First, the term 'wetland' is used as an undifferentiated term for an ecological setting that precludes certain cultural practices. Note that ecological science could be used to produce accounts of particular, differentiated wetland types that would be less supportive of the *CRA*'s conclusions. If the site had been an ephemeral groundwater-fed wet meadow, which is consistent with the hydrostratigraphy given in the appendix, any passers-by may have seen a large inundated area or no wet area at all, depending on the season and year. Instead, the *CRA* does not specify a wetland type, letting a undifferentiated 'wetland nature' do the work of territorialization by describing an ecology inimical to some cultural practices.

Second, the *CRA* amplifies the stratigraphic report's assertion that no sacred practices occurred in this undifferentiated 'wetland'. The importance of this subclaim became apparent in a crucial press conference held to announce the release of the *CRA*. A report of the press conference states:

[W]hile Native American elders have claimed the area may include burial sites, MnDOT consultant John Hotopp [lead author of the *CRA*] says that it is highly unlikely because the area was a wetland before it was filled in the early 1900s: 'It doesn't work well as a location that one would expect to find burials or things of that nature. We'd expect to find them more closely to the edge of the bluff, for example, rather than backed tucked in against the base of a hill. . . . I would say categorically, no one has ever recovered human remains in that kind of environment, *nobody buried in a swamp* [sic].'⁴²

There is a wealth of evidence for practices that could be read as 'cultural' or 'sacred' in many kinds of wetlands.⁴³ But because this assertion was included in a technical report, it is allowed to stand as scientific proof of the lack of sacred activity at the site. The claims can then be disseminated in newspapers and over radio.

The *CRA* also arranges horizontal space around the four oaks so as to reject Mendota claims to the oaks' sacredness. The *CRA* asserts that a space of 50 metres – the distance between the bluff edge and the four oaks – is decisive because of Dakota 'ethnohistory.' In the *CRA*'s reading, human remains should be found 'more closely to the edge of the bluff'. The *CRA* evaluates the Mendota claims only within an area of roughly 100 square metres; in contrast, the report uses colonial sources from a much broader spatial extent to argue against the site's sacredness. The *CRA* includes 16 maps from 1823 to 1927 that 'consistently depict a wetland situated northwest of the Coldwater Springs along the east margin of the adjacent upland'.⁴⁴ However, only three of the maps indicate a wetland, and on these three maps none of the wetland areas is shown to overlap with the location of the four oak trees. The report uses the language of scale flexibly here: 'On each map, the approximate location of the four oak trees *appears* to be situated *near the edge* of a woodlot where it opens out into *adjacent* prairie *or* wetland.'⁴⁵ As with the digital

augmentation of maps discussed above, the capacity to indicate spatial phenomena is as important as the particulars of the phenomena themselves. Thus, the *CRA* considers an 1857 map to be 'the best map' because of its use of a surveyor's grid:

Eastman's map is particularly noteworthy because of its detail and accuracy. The cultural and topographic features he depicts are provided at proper scale and overlain with a land survey grid showing section lines . . . *and also locates wetlands and woodlands*.⁴⁶

Nonetheless, this 'best map' does not show a wetland near the oaks (see Figure 4).

The Mendota read the landscape around the four oaks differently, locating the trees on a broader landscape oriented by the confluence of the two rivers:

Every Spiritual Elder that visits this place and does ceremonies here has told us that the whole area is sacred, that lodges were here and many ceremonies and gatherings took place here. They spoke to us of our ancestors who are buried throughout this land, men, women, and children whose spirits still wander here.⁴⁷

Arguments at this scale are firmly rejected by the *CRA*'s finer spatial divisions. The *CRA* finds that the site of the four bur oaks is not sacred, but recommends a 'complete assessment of Coldwater Spring', which lies only 300 metres south of the four trees, 'as a sacred place'.⁴⁸ Similarly, the *CRA* quotes a missionary's report from 1866 that *Taku Wakan Tipi*, a hill 100 metres west of the oaks, marks the home of the *Onktebi* and is therefore central to Dakota political and spiritual life:⁴⁹

A little to the left of the road leading from Fort Snelling to Minnehaha, in sight of the fort, is a hill which is used, at present, as a burial place. The hill is known to the Dakotas as 'Taku wakan tipi,' the dwelling place of the gods. It is believed that one of this family of divinities dwells there.⁵⁰

The *CRA* therefore concludes that both the spring and *Taku Wakan Tipi* are sacred areas, yet are irrelevant to the evaluation of the oak trees. The *CRA*'s response to the Mendota's challenge to the territorialization of Minnesota is spatial: by de-emphasizing the proximity of these landscape features, it concludes that the spring and the hill, *but not the trees*, should be saved from the reroute. This power to determine the proper geographical scale of scientific investigation is instrumental to the territorialization of this space.

Colonial history and the Mendota Mdewekanton Dakota

The problem of Dakota culture

The same abstractions and stratifications of scientific fact-building which marked the *CRA*'s analysis of the wetlands are apparent in the ethnohistorical section. The *CRA* uses the colonial record to construct a 'consistent' pattern of historical documentation of 'traditional' Dakota funeral practices, taking the reader through different colonial accounts of Dakota funerals from the nineteenth century. The claim that the trees are not sacred hinges on the assumption that the four trees are in the wrong place.⁵¹ Evidence for this claim comes from a 'review of available archeological and ethnohistoric information regarding traditional Dakota funeral practices [that] indicates a strong

cultural preference for locating cemeteries on prominent topographic features'. The different sources describe the Dakota practice of erecting funeral scaffolds (Figure 6). The first account provided, by Riggs, explains that funeral scaffolds are erected on mounds to 'have a good view of the surrounding country'.⁵² The second informant, Seymour, writes: 'A half-breed Indian informed me, that Indians . . . prefer to have their bodies elevated in a conspicuous place . . .'.⁵³ The third informant, Eastman, writes: 'It was usual to choose a prominent hill with a commanding outlook for the last resting-place of our dead.'⁵⁴ Based on these accounts, the *CRA* concludes: 'it seems unlikely that a wetland environment situated at the base of an upland, and some distance from the bluff edge, would be selected as a preferred setting for planting trees intended to hold funeral platforms. In this context, the location of the four oaks . . . is inconsistent.'⁵⁵

There are problems with using colonial informants to define what is a consistent and authentic cultural practice. First, despite colonial representations to the contrary, indigenous cultures are heterogeneous and flexible. Not all Dakota people buried their ancestors in the same way or in the same places. Second, the events of the post-contact era ensured that practices would be 'inconsistent';⁵⁶ as the *CRA* notes, 'cultural turmoil . . . followed the Dakota conflict in 1862'.⁵⁷ For the Dakota, changes to their livelihoods and cultural practices were dramatic; prevailing conditions included a war with the Chippewa, the European invasion and a dramatic decrease in game availability. Thus, we should *expect* to find numerous 'inconsistencies' between patterns of indigenous cultural practices and the colonial record during this period. Third, these inconsistencies do not

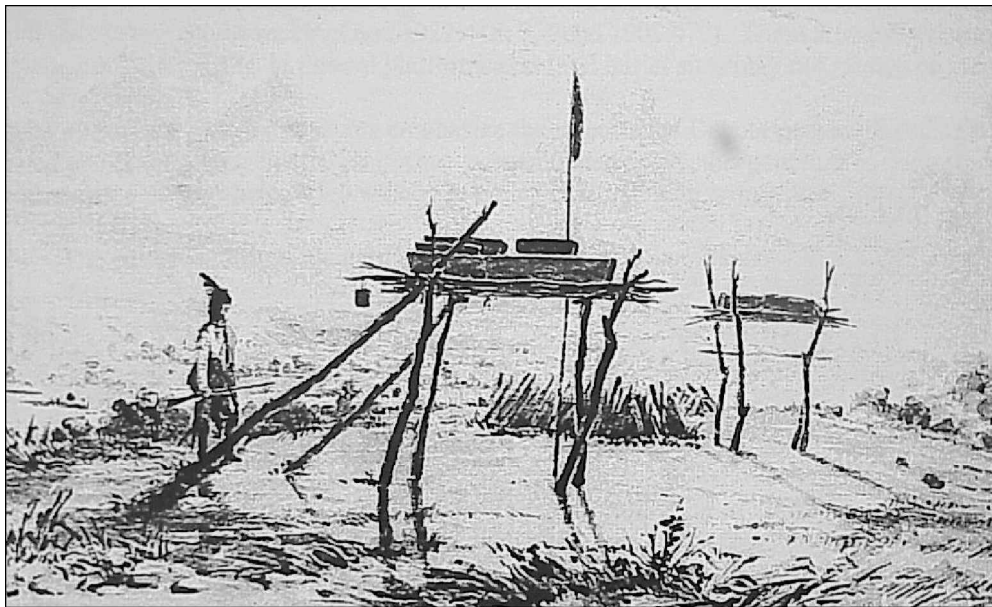


FIGURE 6 A watercolour of a Dakota burial place near Fort Snelling by Seth Eastman, c. 1848. (Source: Minnesota Historical Society, cited in *CRA*, p. 43.)

refute the Mendota claims that the land near the confluence of these rivers continued to be significant. Mendota leaders proposed that Dakota people would have returned precisely to the sacred bluffs above the Minnesota–Mississippi confluence to construct a funeral scaffold.⁵⁸

A related problem is that the *CRA* reads colonial records in a way that treats gaps in the record as indicating an *absence* of cultural practices. Consider the following passage, where the *CRA* summarizes the literature on the archeology of Dakota funerals:

Perhaps the most common observation made regarding Dakota funeral practices [in colonial records] are the descriptions these accounts provide of placing the deceased on elevated scaffolds or in trees . . . prior to in-ground burial. The archeological evidence . . . suggests that this use of scaffolds or funeral platforms have a very long history in Dakota culture. *It is not altogether clear from historic accounts when the Dakota stopped actually building mounds* [or using tree platforms], but information derived from both archeological contexts (Anfinson 1984: 27) and historic accounts (Riggs 1893: 212) clearly demonstrates that the Dakota continued to bury their dead in existing mounds, some originally constructed centuries before, well into the nineteenth century.⁵⁹

The *CRA* thus acknowledges an ambiguity in the colonial record around the decline of Dakota funeral practices, but then settles this question by explaining why the Dakota changed their ways: ‘the influence of Christian missionaries after 1830 and the cultural turmoil that followed the Dakota Conflict in 1862 appear to have forced the Dakota to abandon certain traditional funeral practices, including the use of platforms and mounds.’⁶⁰ In other words, because the Dakota were Christianized prior to 1862, they lost their traditional funeral practices; therefore the four trees could not have been a funeral scaffold. This point is taken to be so unproblematic that no evidence is offered. Like the use of maps to assert tree ages, this argument rests on the assumption that if there were traditional funeral practices after 1862, the colonial authorities would have seen and recorded their presence. A different approach to the historical record would produce a different reading of the silences in the historical record and the absence of colonial knowledge.

The problem of indigenous testimony

This brings us to the treatment of contemporary testimony by Dakota people. Given the legal requirements of cultural resource assessment, excluding the views of the Dakota is impossible. Therefore the *CRA* includes selected oral testimony from Mendota leaders and other indigenous rights activists.⁶¹ Having determined what counts as indigenous geography by defining the scale of the conflict, and limiting what counts as indigenous history by consulting only colonial records, the *CRA* concludes by *including* Dakota voices in a way that renders them powerless.

An analysis of what is included and excluded in the affidavits and oral testimony provided by the ‘native informants’⁶² shows how the *CRA* frames the speakers in a way that enables their silencing. The full self-identifications of indigenous speakers, which include training, age and position in the community, are not used; instead, speakers are

identified only by reference to their 'tribe'. The case of Dick Black is particularly illustrative. In the brief excerpt from his testimony which is included in the *CRA* report, Black is cited as 'Dick Black, Iowa Tribe'. A reader might assume that Black is a member of an indigenous 'tribe' from the state of Iowa who is writing an affidavit because he is sympathetic to the Dakota cause. The *CRA* does not indicate that Black describes himself in his affidavit as 'the Repatriation Representative for the Iowa Tribe of Oklahoma' and as a field inspector for the National Congress of American Indians to enforce Federal indigenous rights laws.⁶³ Nor does it mention that Black teaches repatriation law at the University of Missouri Law School. Including this information would change the way his statement, cited in the *CRA*, is read:

I have visited the site of the proposed reroute of Highway 55 in Minneapolis. It is my opinion and belief that in the ground under or near the path of the proposed Highway 55 construction, are burial remains of ancestors of the Iowa tribe. My opinion is based on numerous cultural and historical factors. The Oneote culture – which came to be part of what was later labeled by the United States government as the Iowa tribe, used to live throughout the areas that are now Minnesota, Wisconsin, Iowa and Missouri. . . . I am certain that the Iowa tribe would have set up a village around Camp Coldwater because it has always been part of our tradition to set up villages around natural springs. Our spiritual tradition includes performing water ceremonies every day that require natural water from the ground.⁶⁴

Similarly, La Rockzana Hop is introduced in the text as simply 'Rockzana Hop, Santee Sioux.' Contrast this with the way Hop positions herself in her affidavit (not cited in the *CRA*):

I am a Native American who is legally enrolled at the Santee Sioux Reservation in Niobrara, Nebraska. I have also signed up for the Mendota Mdewekaton Dakota Community as they apply for federal recognition . . . I learned mostly about my Native culture and history from growing up with my grandmother, a Dakota elder who lived in Mendota. I also learned some more about Native American history and culture after studying at and graduating from the University of Minnesota with a degree in American Indian Studies. I continue to practice and learn my traditions.⁶⁵

Describing a source for 'ethnohistoric' evidence simply by the tribe to which they are enrolled indicates the subject-position for which the Dakota are needed by the cultural assessors – to speak *as Indians*. Thus, Hop's multifaceted discussion of her identity in her affidavit is reduced to the two words that are important for the *CRA*: Santee Sioux. Her oral testimony is also trimmed to exclude all but the barest statements about the four trees and Coldwater Spring. Consider the following passage from her affidavit, not cited in the *CRA*:

Mendota comes from the Dakota words, 'mde ohute,' which mean the joining of the waters. In the context of the Mendota people, the term refers to the place where the Minnesota and Mississippi Rivers meet. Our ancestors lived around the intersections of these two rivers. This includes the areas on the west side of the Mississippi near the coldwater spring, where the reroute is planned. After the Sioux uprising in 1862, our people were forcibly relocated. My direct ancestors were sent to the reservation in Crow Creek, South Dakota, and then forced to the Santee reservation. My grandmother returned to Mendota because it is our spiritual centre and home. . . . [T]he Mendota area, all around the intersection of the rivers, is our people's historical

and spiritual home. Our ancestors' remains are buried around the Mississippi River . . . It is the Lakota/Dakota tradition to bury people on river bluffs on both sides of the river. My grandmother always told me to be careful when I walked the bluffs of the river because people are buried there.⁶⁶

The only statement from her testimony that is actually cited in the *CRA* is: 'I have observed the four old oak trees aligned in the path of the reroute. I feel an aura of specialness that represents the spiritual essence of our people.'⁶⁷ Without reading Hop's statement about her positionality and her comments on the meaning of the rivers' confluence, the forced settlements, and her grandmother's advice, her claim that 'I feel an aura of specialness . . .' sounds sentimental and ungrounded. The *CRA* presents only Hop's *feelings* as evidence because that is all it needs. Such sentiment is contrasted in the *CRA* with the layered 'scientific and historical' claims that are treated as more rigorous, objective and truthful. In this way, her claims actually reinforce the hegemony of the scientific narrative: the 'unscientific' view that there is a relationship between the four trees and the 'spiritual essence of our people' is needed to contrast with the 'facts' about soils and tree rings to produce the sense of rigour associated with the *CRA*'s use of science.

The Dakota testimonies are further limited in the *CRA* by limiting their statements to a specific scale. Hop's positioning of the four trees on the landscape is too broad for the *CRA*. The only claims that are cited are those which refer *specifically* to the spring and four oaks. By imposing such a standard on the testimonies, the *CRA* can 'objectively' exclude the testimony such as Larry Cloud-Morgan's, even though his oral history would seem to identify a 'location of a prehistoric or historic event' as required by federal law.⁶⁸

My grandparents and other elders told me about the history of Fort Snelling and the Dakota people who lived and died in the surrounding area. My grandparents traveled to various Dakota Indian locations around Minnesota, including the area near Fort Snelling, for tribal celebrations. Significantly, they visited ceremonies at the time of Little Crow near the present Mdewekanton encampment. Through my grandparents, (I was 20 years old when they died) I am privy to the oral tradition regarding sacred sites in the area slated for destruction if the highway is rerouted.⁶⁹

The *CRA* has no more interest in Cloud-Morgan's stories about grandparents and the meanings embedded in the 'surrounding area' than in Hop's. By focusing the scale of analysis on the trees, and defining the questions of the trees in terms that could only be evaluated scientifically, the *CRA* tries to close the discussion:

The Native American testimony presented to MnDOT regarding the significance of the four bur oaks emphasized the sacred importance of the trees as the former location of funeral platforms used by the nineteenth century Dakota. This testimony notwithstanding, there appears to be no *historic* or *scientific* evidence that can be shown to support this contention.⁷⁰

The Dakota are thereby invited to be present in the *CRA*, but only through a subaltern presence as native informants that is silenced with three words – 'this testimony notwithstanding'.

The founding gesture of the state of Minnesota was and is the recognition of the disappearing Indian. Here again, the Dakota are represented as *exiting* from Minnesota's historical geography. This is an old trope. Indeed, the figure of the white colonist

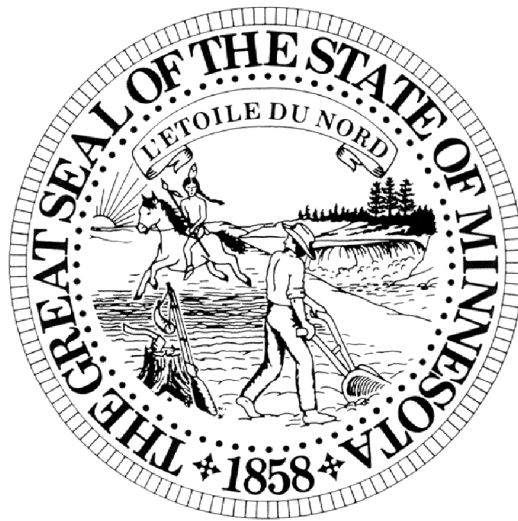


FIGURE 7 The seal of the State of Minnesota.

recognizing the ever-fading Dakota is the official seal of the State of Minnesota, where a Dakota man on horseback is shown looking towards a white farmer as he rides towards the setting sun (Figure 7). The seal depicts a landscape on a bluff above the Mississippi River, where the farmer ploughs the soil next to a felled tree. The sign of the birth of the state is drawn on the contested landscape of Highway 55. In the practices that constitute the colonial state as a territorializing force, the indigenous subject always appears, disappearing.⁷¹

Conclusion

Nor does intervening in history mean lifting, again, the mantle of 'progress' or the quill-pen of empiricism. 'For the native,' as Fanon said, 'objectivity is always against him.' Rather, a *proliferation* of historically nuanced theories and strategies is called for, which may enable us to engage more effectively in the politics of affiliation, and the currently calamitous dispensations of power. (Anne McClintock)⁷²

Our goal has not been to show the failures of the *CRA* by 'proving' the sacredness of the four oaks or by raising the empiricist flag to speak for an indigenous subject. Rather, we have aimed to clarify how scientific claims are made in a way that confronts colonialism through the strategies of affiliation suggested by McClintock.

We offer three conclusions. First, this case shows how territorialization works for colonial states. The state is an assemblage of social relations that requires a relatively fixed 'territory' from which to speak, or to be a state. In the case of Minnesota, only recently constituted through the violent expropriation of land from indigenous nations, claims to territory are complicated by the inability to resolve or conclude the act of

colonizing. Having fought wars, broken treaties and dispossessed indigenous nations of their lands, the state's work of achieving territoriality is not finished – not only because it is haunted by the memory of this violence, but also because of the indigenous presence 'in' its territory. States do not respond to this challenge in a consistent or monolithic fashion. The *CRA* was obliged to include the oral historical testimony of Dakota people. However, the *CRA* placed the statements of Dakota elders within an analysis that invalidated that which they offered. The position of the Mendota Dakota as a nation *vis-à-vis* the state was also inconsistent: on one hand, the Mendota were unable to challenge the state's ruling on the site because they are not legally recognized as an indigenous 'tribe' by the federal government. Yet the Mendota successfully negotiated with the state to receive permission to perform rituals before the police cleared the trees in one of many acts that asserted Dakota territoriality. The growing capacity of the Mendota band since the start of the conflict also suggests that the iterative process of territorialization will be challenged again. In short, the struggle against the reroute of Highway 55 produced a kind of territorial crisis for the state, to which it responded by drawing from its colonial foundations all the scientific and coercive forces it could muster. The case shows one of the limits of the nation–state–territoriality linkage: as indigenous nations raise claims about the sacred, political and cultural meanings of space 'within' the state, territorialization is interrupted.

Second, the *CRA* is an example of a situation where ecological science and state-making are interwoven. The use of particular constructions of ecological phenomena reveals that the state requires a certain kind of nature that will confirm the state's territorial integrity. The question of whether or not the site could be 'Traditional Cultural Property' came to rest on a line in time constituted by dendrochronology: if the four trees were less than 146 years old, they could not have been planted by Dakota people. This logic is made possible by defining time and space around placeholders (such as the tree ages and soil horizons) and then arranging colonial history on a grid around these points. The state was able to call forth a nature – in the form of wetland ecologies and oak growth rates – that seemed to speak objectively in favour of the state's account of its own territory. The language of hydrostratigraphy asserted a wetland space that was always apparent and inimical to cultural practice. But other ecological constructions could be drawn from these investigations. This shows the necessity of critically engaging with the language of ecology without embracing the disciplinary authority of ecology as science.

Third, the struggle around Highway 55 raises the question of the very possibility of writing a just cultural resource assessment. Perhaps we need to ask: what is the cost of treating 'culture' as a resource? Remembering Hop's testimony: how could one evaluate a grandmother's advice as a cultural resource? How did this culture-as-resource become *the* legal means of divining legitimate claims to indigenous sovereignty? We propose that this approach to evaluating culture, and the genre of the Cultural Resource Assessment, is required by states that need scientists to evaluate indigeneity in order for territorialization to be achieved. Geography is always implicated in these practices, because territorialization – the making of the space of the state – requires the codifying and ordering of cultural geographies to win consent. Once calls for justice have been reduced to the objective evaluation of culture as a resource, hegemony is won.

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Notes

- ¹ Aspen, Spiney, and Tumbleweed, 'Massive attack on Minnehaha', *Earth first!* **16** (1999), p. 1.
- ² J. Ventura, *I ain't got time to bleed: reworking the body politic from the bottom up* (New York, Villard, 1999), p. 34.
- ³ The Mendota are a band of the Mdewekanton Dakota nation, but one that is not legally recognized by the federal government. The Dakota are sometimes known as the Sioux.
- ⁴ J. Hotopp, R. Withrow, I. Wuebber and F. Pittaluga, *A cultural resource assessment of the proposed reroute for trunk highway 55, 54th street to county road 62* (Marion, IA, Louis Berger, 1999) (*CRA*). Available at <http://www.lba-crg.com/projects/th55.htm>
- ⁵ National Park Service, *National Register bulletin 15: how to apply the National Register criteria for evaluation* (Washington, DC, US Department of the Interior, National Park Service, 1997).
- ⁶ M. Brunswick, 'Highway 55 study finds no sacred sites', *Minneapolis Star-Tribune* (30 Apr. 1999), p. B1.
- ⁷ G. Anderson, *Little Crow: spokesman for the Sioux* (St Paul, Minnesota Historical Society Press, 1986).
- ⁸ The standard texts for the history of this area and the Dakota are W. Folwell, *A history of Minnesota* (St Paul, Minnesota Historical Society Press, 1922), esp. vol. I; and D. Robinson, *A history of the Dakota or Sioux Indians* (Minneapolis, Ross & Haines, 1974 [1904]). Recent historical scholarship has re-examined the 'birth' of Minnesota and the role of Fort Snelling: Anderson, *Little Crow*; B. White, *Highway 55 and the Camp Coldwater settlement: an independent investigation* (St Paul, Turnstone Historical Research, 2000).
- ⁹ Anderson, *Little Crow*, pp. 30–32.
- ¹⁰ Folwell, *History*, p. 284.
- ¹¹ For accounts of the war, see G. Anderson and A. Woolworth, eds, *Through Dakota eyes: narrative accounts of the Minnesota Indian war of 1862* (St Paul, Minnesota Historical Society, 1988).
- ¹² In 1862 the US government hanged 38 Dakota men in Mankato, Minnesota, in the largest single case of capital punishment in the US. See Robinson, *A history of the Dakota*, p. 302; Anderson and Woolworth, *Through Dakota eyes*. The latter includes a description of the event: '[Governor] Sibley organized a military tribunal of five officers of voluntary regiments to examine evidence regarding Indian participation in the war. By November 5 [1862] the tribunal had tried 392 men, handling as many as forty cases in one day, and sentenced 307 to be hanged. Although many of these men had joined the war reluctantly, the tribunal usually determined their guilt by using their own incriminating testimony and condemned anyone who admitted being at a battle and firing a weapon. The defendants in the trials had no lawyers to represent them, were not allowed to bring witnesses in their own defense, and were given no time to prepare. Despite the fact that few of the men on trial knew the English language and interpreters had to be used, the interpreters were not sworn in. At no point in the trials did anyone intervene on behalf of the defendants. . . . Governmental authorities finally appeased the anger of the white settlers on

December 26 when thirty-eight men were hanged for crimes against civilians. This number was determined by President Abraham Lincoln, whose legal advisors concluded that evidence against the remainder of the Dakota warriors in custody was insufficient to warrant capital punishment' (p. 221).

- ¹³ K. Wensaut, 'New growth from old roots', *The Circle* **21** (2000). Wensaut quotes Mendota tribal chairman Bob Brown as saying, 'My people were here [in Mendota] and were a part of this community. My relatives really didn't have anything to do with the 1862 conflict and were therefore not exiled out of the state with the rest of the Eastern Dakota people' (p. 11).
- ¹⁴ Letter from Bob Brown, 17 Oct. 1999 (Mendota Dakota office, Mendota, MN).
- ¹⁵ Pers. comm., Bob and Linda Brown (Mendota Dakota office, Mendota, MN, Aug. 2001).
- ¹⁶ B. Braun, 'Producing vertical territory: geology and governmentality in late Victorian Canada', *Ecumene* **7** (2000), p. 28.
- ¹⁷ By convention the word 'state' is capitalized when used as a proper noun. We argue that indigenous claims to sovereignty may interrupt the territorialization of such States. Therefore a rigorous writing of this case study would only speak of the 'Minnesotan state', since it is precisely the failure of the state to fully achieve its territoriality and 'become' the State of Minnesota that is under examination.
- ¹⁸ G. Deleuze and F. Guattari, *A thousand plateaus: capitalism and schizophrenia* (Minneapolis, University of Minnesota Press, 1987); E. Said, *Orientalism* (New York, Vintage, 1976); Braun, 'Producing vertical territory'; N. Brenner, 'Beyond state-centrism? Space, territoriality and geographical scale in globalization studies', *Theory and society* **28** (1999), pp. 39–78; E. Swyngedouw, 'Neither global nor local: "glocalization" and the politics of scale', in K. Cox, ed., *Spaces of globalization* (New York, Guilford, 1997), pp. 137–66. See also the articles in the special issue on postcolonialism and indigeneity in *cultural geographies* **9** (2002), pp. 125–247.
- ¹⁹ See Said, *Orientalism*; R. Guha, ed., *A subaltern studies reader, 1986–1995* (Minneapolis, University of Minnesota Press, 1997); G. Spivak, *A critique of postcolonial reason* (Cambridge, MA, Harvard University Press, 1999).
- ²⁰ Said, *Orientalism*.
- ²¹ *Ibid.*, p. 54.
- ²² J. Agnew and S. Corbridge, *Mastering space: hegemony, territory and international political economy* (New York, Routledge, 1995); A. Wendt, *Social theory of international politics* (Cambridge, Cambridge University Press, 1999).
- ²³ R. Johnston, 'Territory', in R. Johnston, D. Gregory and D. Smith, eds, *Dictionary of human geography* (Oxford, Blackwell, 1995), p. 620.
- ²⁴ On worlding, see M. Heidegger, *Being and time* (New York, SUNY Press, 1996 [1926]), pp. 59–105.
- ²⁵ Brenner, 'Beyond state-centrism?', p. 47.
- ²⁶ For another view of internal territorialization, see: P. Vandergeest and N. Peluso, 'Territorialization and state power in Thailand', in N. Blomley, D. Delaney and R. Ford, eds, *The legal geographies reader* (Walden, MA, Blackwell, 2001), pp. 177–86.
- ²⁷ B. Latour, *Science in action: how to follow scientists and engineers through society* (Cambridge, MA, Harvard University Press, 1987), p. 230.
- ²⁸ *Ibid.*, ch. 1.
- ²⁹ *Ibid.*, p. 150.
- ³⁰ *Ibid.*, ch. 2.
- ³¹ *Ibid.*, p. 56.
- ³² G. Johnson, 'Report on the aging of bur oaks near Minnehaha Falls, Minneapolis, MN', letter from the Department of Forest Resources, Minneapolis, 1998.

- ³³ *CRA*, p. 52.
- ³⁴ *CRA*, p. 59. A study by University of Minnesota Extension tree adviser Jim Nelson found that the four trees could be as old as 176 years. This report was not taken up in the *CRA* on the grounds that Nelson's methodology was insufficiently described. Nelson visited the site and was allowed to take measurements of the four oak trees; he cored trees with similar diameters.
- ³⁵ *CRA*, p. 53.
- ³⁶ This date is asserted with the claim: 'Historically, it is unlikely that any funeral scaffolds would have been erected in the project area after 1853 (146 years ago), the year when virtually all the inhabitants of traditional Dakota villages near Fort Snelling were forced to relocate to reserved territory along the upper Minnesota River' (*CRA*, p. 53).
- ³⁷ On buried colonial epistemologies, see B. Willems-Braun, 'Buried epistemologies: the politics of nature in (post)colonial British Columbia', *Annals of the Association of American Geographers* **87** (1997), pp. 3–31.
- ³⁸ M. Sparke, 'A map that roared and an original atlas: Canada, cartography, and the narration of nation', *Annals of the Association of American Geographers* **88** (1998), p. 466.
- ³⁹ *CRA*, p. 59.
- ⁴⁰ M. Kolb, *Stratigraphic and geomorphological investigations along a portion of Minnesota Trunk Highway 55, Minneapolis, Minnesota* (Sun Prairie, WI, Strata Morph Geoexploration, 1999).
- ⁴¹ *Ibid.*, p. 9.
- ⁴² M. Losure, Minnesota Public Radio, 29 Apr., 1999 (emphasis added).
- ⁴³ B. Coles, 'Wetland archaeology: a wealth of evidence', in M. Williams, ed., *Wetlands: a threatened landscape* (Cambridge, MA, Blackwell, 1990).
- ⁴⁴ *CRA*, p. 35.
- ⁴⁵ *CRA*, p. 14 (emphasis added).
- ⁴⁶ *Ibid.* (emphasis added).
- ⁴⁷ L. Brown, 'Letter to Dennis Gimmetad, State Historic Preservation Office', Mendota, MN, 18 May 1999, p. 3.
- ⁴⁸ *Ibid.*, p. 61.
- ⁴⁹ *Ibid.*, p. 40.
- ⁵⁰ G. Pond, 'Dakota superstitions', *Minnesota Historical Society collections* **2** (1889), p. 220, cited in *CRA*, p. 40.
- ⁵¹ *CRA*, p. 59.
- ⁵² *CRA*, p. 45.
- ⁵³ *Ibid.*
- ⁵⁴ *Ibid.*
- ⁵⁵ *CRA*, p. 47.
- ⁵⁶ *Ibid.*
- ⁵⁷ *CRA*, p. 42.
- ⁵⁸ J. Anderson, pers. comm. (Minneapolis, 1999).
- ⁵⁹ *CRA*, p. 42 (emphasis added); S. Anfinson, 'Cultural and natural aspects of mound distribution in Minnesota', *Minnesota archaeologist* **43** (1984); Riggs, S. *Dakota grammar, texts and ethnography* (Washington DC, US Geographical and Geological Survey, 1973 [1893]).
- ⁶⁰ *Ibid.*
- ⁶¹ The affidavits are included in included in an appendix to the *CRA*, published separately and not available through the internet (unlike the *CRA*).
- ⁶² For a genealogy of the native informant, see Spivak, *A critique of postcolonial reason*.
- ⁶³ D. Black, 'Affidavit of Dick Black', 4 Jan. 1999, court file no. 98-19859, p. 1 (included in *CRA* vol.

II, app.).

⁶⁴ CRA, app. C, p. 3.

⁶⁵ R. Hop, *ibid.*, p. 1–2.

⁶⁶ *Ibid.*, p. 2.

⁶⁷ Hop, cited in CRA, p. 35.

⁶⁸ National Park Service Bulletin 15, cited in CRA, p. 51.

⁶⁹ CRA, app. C, p. 2.

⁷⁰ CRA, p. 51 (emphasis added).

⁷¹ We borrow the latter phrase from J. Derrida's discussion of *différance* in '*Différance*': *margins of philosophy* (Chicago, University of Chicago Press, 1972). There is a long tradition of framing indigenous history as though it begins *and* disappears through white colonization. The subtitle of the previously cited Robinson text captures this perfectly: *A history of the Dakota or Sioux Indians – from their earliest traditions and first contact with white men to the final settlement of the last of them upon reservations and the consequent abandonment of the old tribal life*. The Dakota *enter* history through contact with white settlers, and depart from it upon 'abandoning' their ways. Colonial historiography thus guarantees that all indigenous history repeats, allegorically, the story of the Fall from nature into civilization.

⁷² A. McClintock, 'The angel of progress: pitfalls of the term "post-colonialism"', *Social text* **31/32** (1992), p. 97.